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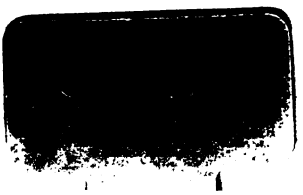

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MEMORIAL EXERCISES *of the*
BAR ASSOCIATION *before*
SUPREME JUDICIAL COURT
JUDSON
PRESIDING

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Bar association of the city of Boston

MEMORIAL EXERCISES *of the* BOSTON BAR ASSOCIATION *before the* SUPREME JUDICIAL COURT in Memory *of* THOMAS M. BABSON

HON. HENRY N. SHELDON, PRESIDING

DECEMBER 14, 1912

BOSTON
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FOR THE

BAR ASSOCIATION OF THE CITY OF BOSTON

JUN 13 1918

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MEMORIAL EXERCISES OF THE BOSTON BAR ASSOCIATION DECEMBER 14, 1912

REMARKS OF ATTORNEY-GENERAL JAMES M. SWIFT.

May it please your Honor:

In accordance with long-established custom, it is my privilege, as Attorney-General of the Commonwealth, to present to this Honorable Court a memorial adopted by the Boston Bar Association upon the death of the late Thomas M. Babson, and to move that it be spread upon the records of this court. As my own practice has been in the main in another section of the State, I did not have that intimate personal acquaintance with him nor the opportunity of observing him in the trial of causes and the administration of his office that the members of the Boston bar have had, and I do not feel that I can so well speak the sentiments to be expressed by his associates to-day.

The fact that the court has departed from the custom which has generally been followed of simply receiving such a memorial itself attests the leading position of Mr. Babson at the bar and in the community and declares the high esteem and regard in which he was held.

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THOMAS M. BABSON

For more than thirty years Thomas McCrate Babson served the city of Boston in its legal department, beginning in 1879 as fourth assistant city solicitor, and later as second and first assistant, until in 1891 he was appointed to the highest office, that of corporation counsel. From that date to the time of his death, more than twenty years later, he was the head of the Law Department of the City of Boston, with the title either of corporation counsel or city solicitor.

His name appears in the reports of the decisions of the Supreme Judicial Court as counsel for the city of Boston for the first time in 1880, in the 128th volume of the reports, and for the last time in the latest bound volume of the reports, the 211th. There are but few of the eighty-odd volumes of our latest reports in which his name does not appear as counsel for the city in some one or more important cases. The varied and difficult questions involved in many of the cases in which he represented the city demonstrate alike his versatility and resourcefulness of intellect, his knowledge of the law, and his fidelity to his client's interests. Indeed, it might almost be said that no better memorial need be preserved upon the records of this court than is contained in these printed volumes of the reports of the decisions of the court. But his brethren of the bar are not content that the only memorial shall be in the cold type of the formal record of these decisions. They desire to have spread upon the records of this court a memorial

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that may show for all time the esteem and respect which they felt for him as a lawyer and as a man.

Although of Massachusetts ancestry, he was born in the State of Maine, that mother of so many great and rugged sons. Except for a brief period the whole of his mature life was passed in Boston. The opportunities for a full education seem to have been denied him. He was admitted to the bar in 1868. From that time until his appointment to the Law Department the records of his life show him to have been industrious and ambitious to succeed, and he brought with him to the work of that department all the best traditions and habits of thought of the best New England ancestry. He was interested from the first in the many and difficult legal questions which necessarily came to the department with which he was so prominently identified and of which he was the head for so many years. He devoted all of the years of his service to unremitting thought and toil and achievement. Few men have been privileged to represent the interests of one single client for more than thirty years and to have carried on the work of that client from the time when he was a young man to almost literally the day of his death. All the justices of the Supreme Judicial Court and of the Superior Court who were on the bench at the time of his appointment to the Law Department have ere this passed away. If I may use the expression, several generations of judges have presided in the courts in which Mr. Babson has appeared as counsel for the city of Boston.

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The present justices of the two courts knew him, I take it, as did their predecessors, as an honest-thinking, sincere-speaking, able, and strong advocate in the trial of the causes and the arguments of the law. Probably few men at the bar have been regarded with greater respect by the judges of the courts and by their brethren of the bar than was Thomas M. Babson.

Of his work before this court the records of the cases reported show him to have been a man of regularity of thought, of a thorough knowledge of municipal law, and a power of expression and presentation of views.

Of his work in the trial of jury cases in the Superior Court no available record can exist except such as may be set forth in the terms of the memorial presented to this court and in the statements of the affectionate memory of his many antagonists in the trial of specific cases. He brought with him to the actual trial of cases in the court-room the same standards and the same manner of thought and speech that he had in his personal relations. He combined to a great degree the simple democracy of a natural, unaffected person with the old-fashioned dignity of the self-respecting New England citizen, and he preserved always the traditions of the best type of the Massachusetts lawyer.

In addition to the great number of cases in which he actually appeared in the court-room, both in the arguments of questions of law and in the actual trial of cases, it is but history to say that he did a

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vast amount of work in connection with the adjustment of cases in his office. In the consideration of questions of law and of justice as between persons presenting honest claims for adjustment he was considered uniformly fair and appreciative of the rights of the individual members of the community as well as loyal and conscientious in the preservation of the rights of the corporate client which he represented. His private and public life were unblemished. His standards were high. He was a strong character, whose personality will long linger as a happy memory to his brethren of the bar, who request me as their representative to move that their memorial be spread upon the records of this Honorable Court.

I now have the honor to present the Memorial.

MEMORIAL.

It is one of the advantages of our profession that we come into such close mental and moral contact with men that we learn their characteristics, determine their worth, and can, with no little accuracy, estimate their intellectual position and their character. The conclusion reached about any man is usually not the result of any attempt to form an opinion about him, but it is the result of a multitude of impressions produced by numerous words and acts extending through years, and which are the uncon-

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scious expressions of the character of the man who spoke and acted.

In judging men for particular acts or on special questions, we make mistakes, usually upon the side of a too strict interpretation and rigid moral accountability, but there are men concerning whom we make no mistakes, and the judgment upon whom is not variable. We know them so well that it is possible to expect from them only one course of conduct, and that course of conduct one that our minds and consciences will approve.

Such a man was Thomas McCrate Babson. Born of sturdy stock in the little seaport town of Wiscasset, Maine, May 28, 1847, his early boyhood was spent in that most favorable environment, the country and seashore, where he came in contact with the life of the farm and the country village, and the building and navigation of sea-going craft. In such surroundings a boy, even at an early age, absorbs much that proves of value to him in maturer years, and this was true in his case. He came to Boston in his boyhood with no adventitious aids, but with health, physical vigor and beauty, a clear mind, a capacity and a willingness to do hard work, and a strong moral sense. Here he obtained the greater part of his education in the schools, and in 1868 he graduated from the Harvard Law School. The following year he opened an office for the practice of law in this city, and, with the exception of a year or two spent in St. Louis, continued practice in Boston until his death on March 5, 1912.

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During the period spent in private practice his experience was similar to that of most young men similarly situated. There was no brilliant success, no spectacular display, but there was a steady growth in efficiency, a continually increasing business, and a constant growth of confidence on the part of clients and friends and throughout the community. More and more he came to be recognized as competent and faithful, a safe counsellor and an able advocate.

In the comparatively few years spent by him in private practice he served one year, 1877, as a representative in the legislature from old Ward 16, but he never held any other political office. In April, 1879, he entered the Law Department of the City of Boston as Fourth Assistant City Solicitor under John P. Healy, and there found the place for which his talents peculiarly fitted him. Two years later he became Second Assistant, in 1885 First Assistant, and in 1891 he was appointed Corporation Counsel by Mayor Matthews. In 1895 he was transferred by Mayor Curtis to the office of City Solicitor, and there remained until July, 1904, when the office of city solicitor was abolished, and he again became Corporation Counsel, which office he held until his death.

For thirty-three consecutive years he served the city of Boston in its Law Department, during the larger part of that time as the head of that department. Successive administrations, without regard to party feeling, retained him in that important

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office because it was universally recognized that his ability and character pre-eminently fitted him for the place. The amount of work which he did was very great, but he was never flurried, never unprepared. He did his work not only effectively, but easily. He was never too busy to confer upon any matter which brought an ally or opponent to his office. His knowledge of municipal law, of the business of all departments of the city government, and of real estate values, was comprehensive and accurate, and was always at the service of his friends.

He was the legal adviser of all the departments of the city, and the task of answering the numerous questions propounded to him by successive mayors, city councils, and other departments, together with his work for the Transit Commission and before legislative committees, seemed sufficient to occupy the time and strength of a strong man. But in addition to all these he took upon himself the conduct of all the most important cases of the city, both at *nisi prius* and before the full bench. His thorough knowledge of his case and of all that pertained to it, his common sense and good judgment, his homely wit and acquaintance with human nature, and, above all, his fairness and honesty, which shone through all he said and did, made him an unusually effective advocate with juries, and his arguments to the full bench, owing to his knowledge of legal principles and his ability to apply them clearly and accurately to the facts, presented the strongest aspect of his case in such a way that there was no possibility of

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misunderstanding his position, and gave intellectual pleasure both to the court and the bar.

He had an instinct for the real point in the case, both of law and fact, and made the most of it, neglecting side issues and non-essentials. He never resorted to smart tricks nor sought unfair advantage. In his personal and social relations he was a charming companion. Here, as in his professional relations, the honesty and frankness of the man were conspicuous. His standards of thought and conduct were high, and he ordered his life in harmony with them. Men were attracted to him because of his qualities of mind and heart, and remained his friends throughout life. It is the fortune of many men to be respected, of a few to be loved. Of brother Babson it can be truthfully said that all respected him, and all who really knew him loved him.

REMARKS OF
ALFRED HEMENWAY.

Another link is broken in the brittle chain that binds us to the past.

Thomas McCrate Babson, for thirty-three successive years in the Law Department of the City of Boston, of which he died the head, was first associated with John P. Healy, who was city solicitor more than a half-century ago, and whose conversa-

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tion, rich in memories of the bench and bar, had a peculiar charm for the youth of my generation because of his partnership in the practice of law with Daniel Webster.

To hold for a generation a great municipal office is a mark of distinction.

To hold such an office with no change of political faith in a city where civic mastery shifts so often is an *honorable* distinction.

His political faith was an inheritance from a sturdy ancestry. A Democrat by birth, he never wavered in his affiliations. He was not a *blind*, but a *faithful* partisan.

In the entanglement of political strife, "amid change and counter-change," he was continuously aligned with the party of his early choice. Always frankly avowing his convictions, in his official conduct there was no alloy of partisanship.

He had the independence of integrity. He had moral soundness and ingrained honesty.

He was free from corrupting influences or motives.

His knowledge of law was adequate.

In dealing with facts, he had that instinctive knowledge of the true relation of things which, though uncommon, is called *common* sense.

He had tact and good judgment.

Born in the country, he was educated and lived in the city. The characteristics of city and country in him were happily blended.

He knew men, and dealt with them without condescension or assumed superiority.

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Of *municipal* law he had a commanding knowledge. Many cities and towns sought his counsel.

His familiarity with local conditions was unequalled. He was not only courteous, but kind in the treatment of others.

He freely imparted that knowledge of the technicalities of municipal practice with which long experience had made him so familiar.

He toiled without haste and without rest. Each duty had its hour, and each hour its duty.

To these distinctive traits he owed his long official tenure.

He loved Maine as his birthplace.

He loved Massachusetts as the State of his adoption.

He loved outdoor sports, but did not allow their pursuit to trespass upon his duties. He had a wide acquaintance and many friends. He was loyal in all things. His was a well-rounded life. Without exceptional brilliancy he was equal to every duty. We shall ever remember him for his manliness in all things.

In his death Boston has lost a wise counsellor, and we have lost a friend of whom we were fond and proud.

I second the motion of the Attorney-General.

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REMARKS OF
NATHAN MATTHEWS.

May it please the Court:

In seconding the adoption of the resolutions in memory of our late associate, I ask the indulgence of the court for a few additional words of personal reminiscence concerning one who was perhaps my oldest professional friend.

It was my good fortune to see much of Mr. Babson for many years and in many ways. Associated with him for over five-and-twenty years in politics, in municipal administration, at the bar, and by the yet closer ties of personal friendship, I was favored with special opportunities for observing his attainments, both intellectual and moral; and these opportunities I shall always regard as among the best gifts which fortune could bestow.

As a public officer, Mr. Babson was practically at the head of the Law Department of the City of Boston during thirteen different administrations by seven different mayors, representing different political parties and different sections of his own party. He enjoyed the confidence of them all because of the respect inspired by his sincerity, high character, ability, and standing in the courts. Although too frequently the object of abuse by members of the city government and others for doing his duty, particularly when giving opinions which prevented

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the execution of some scheme of extravagance or spoliation, he never allowed these attacks, although the injustice of them was felt by him with increasing sensitiveness as the years went on, to affect his official action or to blunt the keenness of his civic perceptions.

His loyalty to the city was equalled by his loyalty to his profession, and he was in a position to do almost as much for one as for the other. He was not only a most successful jury advocate during a period when the trial bar of this city was particularly strong, but he had a knowledge, peculiar to himself, of municipal statutes, and an almost intuitive understanding of municipal law. His mind was a law book, his memory a storehouse of public law and practice; and this vast fund of information was open, not only to every public officer in the State, but to every member of the bar. No one who sought the benefit of Mr. Babson's information and advice ever failed to get it, and as most of the applicants were his professional associates, it seems fitting that this intellectual generosity should be referred to on this occasion.

The best traditions of the private citizen, the public officer, and the lawyer, were alike illustrated by the career of our lamented associate. His death is a loss which nothing can repair; and the memory of his kindly, patient, useful, and unselfish life as corporation counsel of this city, will be cherished by every public or professional man who came within its wholesome influence.

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REMARKS OF
FELIX RACKEMANN.

May it please the Court:

The pace of modern life is so swift and its exactions and absorptions are so great that much which is close about us fails of any due appreciation.

It is often the empty niche which causes us to pause and reflect upon (and for the first time fully realize) the proportions and beauty of the figure which for long years occupied it.

So it was with Babson.

It is not overstatement to say that few lawyers at our bar in the last quarter of a century have (merely by example) exercised a more powerful influence for good than he.

The true secret of that influence would be sought by many a stranger in vain. Its very simplicity would tend to its obscurity.

The secret was in the *character* of the man. That character was rare and fine in many ways and in unusual degree. Strength there was, moral and intellectual. Ambition there was, but of the most praiseworthy kind, free from all thought of personal aggrandizement,—the ambition to do his duty from day to day with all his might. Integrity he had of such inborn sterling stuff that he never wavered an instant in taking his positions, always instinctively

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and deliberately on the right side of, and well back from, any line of doubt.

Loyalty and affection he gave in full measure, but never unless sincerity went with them.

Modest, unassuming, *proud* (but with no single fibre of conceit in him), of splendid judgment and resource, he gave constant exhibition of extraordinary effectiveness, unattended by display or by any apparent thought of self.

The simplicity, open-hearted frankness, and sincerity which uniformly characterized all his dealings with the court and with the bar won for him the admiration and respect which he always enjoyed, and made him the influence for good which he always was.

This world of ours would be a better world if there were more men of Babson's stamp to impress and influence and guide it.

Tolerant, patient, cheerful, confident of the present and hopeful of the future, religious in spirit, tender and true as a son, a husband, and a father, there passed a good man when Babson died.

May it please your Honor:

This sitting of the court fails of its full function, if it serves merely to afford, to those who admired and loved, an opportunity to lay their tributes on the tomb and complete a memorial record of the court. The *good* which men do is not always "interred with their bones." The influence of Babson's

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life should live actively, and these exercises should fasten that influence upon us to make us better men because he lived.

REMARKS OF JOSEPH J. CORBETT.

When one of the legal profession lays down the burdens of this life, it is often said that he leaves behind him no lasting evidences of his work and his worth; that while his legal contemporaries have their estimate and impressions of him, to those who come after, to posterity, he has never existed.

This, in a general way, may be true not alone of members of the legal profession, but of those of every calling; yet we are happy in the knowledge that there are exceptions, and in the case of Mr. Babson, whose memory we honor and revere to-day, we have an example.

We learn from the memorial offered by the Attorney-General that for more than thirty-three years he was a member of the Boston Law Department, and for almost one-third of that time he was at the head of that department.

We who had business dealings with him, as well as all who saw him at his work day by day, know that for practically all of this time he was the principal trial lawyer of the city, and for many years represented it before committees of the General

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Court, public boards, and officials. He presented its claims and contentions before these boards, and defended its course of action before all the courts of the Commonwealth and before the Federal courts as well.

During this time we have seen surprising changes in the city charter. Hundreds of laws have been passed relating to Boston, and in the passage of all of these Mr. Babson was ever present, safeguarding and protecting the interests of the city of Boston.

When we consider that, besides all this, Boston, far earlier than any other American municipality, engaged in functions that were new and novel, and that concerning these the corporation counsel was first consulted, not alone on the legal questions involved, but, quite as important still, on the business propositions and on the advisability of the city undertaking such functions, we can have some idea of the range of his services and of their value.

This legislation relating to these public functions and works occasioned much litigation, and an examination of the docket of the great trial court of this Commonwealth and of this court will show the large number of important cases in which he appeared for the city. Indeed, some of these cases are the leading authority on municipal law, not alone in the Commonwealth, but in the entire country.

In the performance of these duties Mr. Babson was patient, able, and faithful, and, if success is to be measured by victories won and results achieved, then he was successful to an extraordinary degree.

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We all saw in his pride of opinion and his tenacity of it a reflection of his zeal for his client, which, estimated in mere money saved to the people and the public treasury, would reach an amount in truth stupendous.

It was my privilege to serve under him for too brief a period, but in that time I saw his constant devotion to duty, his singleness of purpose, and the beneficial results to the city of his efforts. We who are attempting to carry on his work look for his opinions in the solving of questions that are presented to us, and when we find them, as well as when we know his opinions and judgment on the hundreds of pending matters, we have religiously followed him because we had confidence in his business sagacity and in his legal acumen, and in every instance we have done so with profit to the city.

The city is better in its every department for his life, and in his death has suffered a distinct loss. By his services and accomplishments Mr. Babson has left behind him imperishable evidences of his work and his worth. It will be a long time before the position he occupied will be so well and ably filled.

Your Honor, not alone on behalf of the Law Department, but also on behalf of the city of Boston that he served so long, so faithfully, and so well, I second the motion of the Attorney-General that the Memorial be spread upon the records of this court.

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REMARKS OF JOHN T. WHEELWRIGHT.

I had the honor of serving under Mr. Babson for some years, and had an opportunity to know the man and his ability. My affection for him is so great that I desire to say a few words at this time, and particularly to narrate the substance of a conversation which I had with him at his office a few days before he was stricken down by his last illness.

He said to me: "I have been sitting in this office for more than thirty years, trying to do my duty, earning a living,—and a little more,—but I suppose that very few of the citizens of Boston are interested in my work or know very much about it. There is one thing, however, in which I have aided, in which I did a service of great value to the community; that is, in obtaining the legislation by which the proper relations between the community and the Gas Company were established, which provided for the 'sliding scale,' so called, by which no raise can be made in the dividend of the company without a reduction in the price of gas to the consumer."

I said to him what I now repeat to you, "Mr. Babson, the community is fully aware of the great value which your services have been to it during all these years, and the members of the bar and the business community will never forget your faithful performance of duty."

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The early settlers of Maine were of a different class from those who settled Massachusetts. They were adventurous Englishmen, who established fishing and trading stations along the coast. From such a stock Mr. Babson was descended, and he had their qualities in full possession. He had the "brave old wisdom of sincerity," and, although he had passed most of his life in this city, he had a certain homely rusticity which was remarkably effective before a jury. His knowledge of men and of municipal law made him a safe adviser to the different administrations under which he served, not only in matters of law, but in matters of policy. He regarded his client, the city, as a high-minded gentleman, who wished to take no unfair advantage of any one, but whose interests he zealously guarded.

REMARKS OF
JAMES R. DUNBAR.

May it please the Court:

There is one feature of these memorial exercises which is unusual, and on that account perhaps all the more impressive. When we gather on occasions like the present to pay our tributes to the memory of departed friends, their striking characteristics are apt to be uppermost in mind. High achievement, professional ability, marked intellectual power, and other similar distinctions are not infrequently the

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challengers of our admiration. But the impressive point in these exercises in memory of our departed friend Babson is that in all the spoken tributes the emphasis has been put not so much upon any special powers, attributes, or distinction as upon the *character* of the man.

It is the *man* himself in which we see that which challenges our admiration and compels our respect and our affection.

What can be finer than to take all that goes to make up a human life, and, mentally reviewing it, find that it is the entirety, the character itself, which is more impressive than any separate features?

It was Babson's *manhood* which made him what he was. It is his *manhood* which we first and chiefly see, as we think of his life.

I shall enter upon no discussion of his work or his talent, but I want to speak of him briefly as a man and friend.

I knew him for many years,—more than a quarter of a century,—and never found him lacking. During all this time my regard and affection for him increased. His friends knew the depth and steadfastness of his affection, and all who met him were impressed with his frankness and fairness. He had so much regard for others that it was impossible for him to be other than fair in his treatment of them. The character of the man was shown in word and act, and his frankness and honesty won the respect and the regard of all right-thinking men with whom he came in contact.

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He had, too, the personal, physical and mental characteristics which inspire liking. In his early manhood he was physically a very handsome man, strong and virile and very attractive. His face invited and inspired confidence. It was the face of a man without any small or mean qualities. No man with such qualities could possess such a face. Habits of thought and conduct write their lines upon the countenance, and the spirit of a knave sooner or later shines through his eyes. Time destroys strength, beauty, intellect (all that we hold valuable),—and our friend could not escape the common lot,—but it wrote no crooked line upon his face, and no gleam of trickery or cunning ever shone in his eyes because there was no such quality in him.

It is inevitable that a man who is physically handsome, full of life and the activities of life, strong in intellect, loyal and staunch to his friends, considerate of others, candid and frank in his treatment of all, never false to his duties, possessing also those indefinable qualities which gain for a man the title of "good fellow," should be loved by his friends and esteemed by all who knew him.

It is said that the acts and words of a lawyer are writ in water. Of his professional activities this is unfortunately too true; but the influence of a worthy life is written upon minds and hearts which are immortal, and such influence endures.

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BY THE COURT.

It is well that we should turn aside from the routine of our daily concerns to recall and to commemorate the honorable life of our deceased brother, Thomas M. Babson. He was admitted to our bar more than forty years ago, and for nearly the whole of that time he practised his profession among us. Coming from another State, he was at first but little known here. He did not rise to eminence at a leap, as favoring circumstances joined to no greater ability have enabled others to do; but his progress, though at first slow, yet was steady and certain. He had the traits which lead to success. His appearance was unmistakably in his favor. His personality was more than usually attractive. Health, vigor, and kindliness beamed from his bodily presence. His ingrained honesty of purpose and the intellectual discernment which was, and was to remain, the unerring guide of that honesty of purpose, showed themselves plainly upon his features and in his conduct, even at that beginning of his career. He was clear-headed and clear-minded. He saw distinctly the end to be aimed at. He perceived alike the direct path to that end and the obstructions to its course which sometimes make the way of longer distance the easier and practically the shorter road to follow. Add to these qualities a temper of unexcelled sweetness, a ready willingness and an un-

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surpassed capacity for hard and continued labor, and it is easy to see why his career has been more than ordinarily successful.

I have said in substance that Babson owed his success to himself,—to his endowments and his industry. This seems to me to be the exact truth, incapable of being stated too strongly. And yet it is true also that he was fortunate in the opportunity that came to him when, after a scant ten years spent in general practice,—a little of it in St. Louis, but most of it here in Boston,—he became one of the assistant city solicitors of this municipality.

There had been up to that time, in spite of the good work done by the late Mr. Healy and his assistants, a feeling that next to certain corporations, when sued in certain kinds of actions, our cities and towns, especially this city, were desirable defendants, alike in suits for injuries to persons or to property by reason of defects in public ways, for the assessment of damages where land had been taken for public uses, and in other similar actions. There was, doubtless, to a limited extent, but still really existing, an idea that juries were disposed to regard with favor the demands made by individuals upon the public purse, and that success in such litigation was more easily to be attained than with the same evidence and under the same circumstances it would have been against other individuals. Whether there was any foundation for such an impression or how far it may have been justified, it is not for me to say. But I may say, and the memory of

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many others will bear me out in saying, that Mr. Babson's services to the city as a trier of cases went very far towards the overthrow of such a notion. There was then an accumulation of suits pending against the city. He tried very many of these to juries, and he had a measure of success which at once attracted attention. And I am convinced that much of his success before juries was due to the fact that they, like all others who had occasion to see him at his work, could not fail to be impressed with his absolute fair-mindedness and integrity, his sober love of truth for its own sake, and the unpretending but severely accurate certainty of his mental processes. He could, and often he did, state a truth, perhaps lying too deep for ordinary perception, perhaps too much in conflict with sympathy or prejudice to be readily accepted, in so simple, commonplace, or even uncouth a form that its mere statement, in the way that he put it, left no room for denial, and made even biassed auditors willing to act upon it. But, after all else has been said, it was with Babson as with almost all others who have attained eminence in our profession. He was willing and able to toil with untiring persistence,—to labor not merely as a ready worker, but as if he loved it, to work not merely to the full extent that the occasion required, but yet further than that. The saying of Virgil that labor conquers all things is often in our mouths; but too frequently we forget that to his words "*labor omnia vincit*" that poet added the qualifying word "*improbus*."

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It is not mere labor that gains its end. It is the *improbus* labor,—the labor that does not proportion its exertions to the bare standard of what is imperatively called for, but that goes beyond what is needed. That was the characteristic of our deceased brother's work; and it is to that trait even more than to the charm of his personality and to his intellectual gifts that he owed his high position at our bar.

But it is rather of Babson the man than of Babson the lawyer that I love to think. It was my good fortune to make his acquaintance forty-odd years ago, when he and I were both beginners at the bar, relying upon our hopes for the future rather than upon anything yet achieved. We became friends,—close and warm friends. And that friendship continued while we were both in active practice, and after I had experienced that comparative isolation which is perhaps the most unfortunate accompaniment of service upon the bench. Like all of you, I had observed with sorrow the recent waning of his health; and yet the news of his death came to me with the shock of a personal bereavement. But I may not speak of my personal feelings upon this occasion.

Babson was happy in his domestic life, as such a man naturally would be. Great as is our loss, that of his widow and children is immeasurably greater. We can only sympathize with them in their affliction, which we can appreciate in some measure by the sense of our own loss. It may be some little con-

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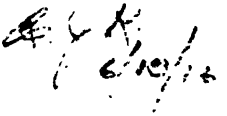
solation to them to know that their sorrow is shared by so many others.

An upright man, a genial companion, an unfaltering friend, a sound and clear-headed lawyer, a faithful public servant, one to whom the city owes a debt of gratitude for good service,—while we would not in these memorial exercises transcend the limits of his own sobriety of thought and expression, it yet is difficult to avoid the language of eulogy. We may profit by his example. We shall cherish his memory.

Let the Memorial be spread upon the records of the court.

The court will now adjourn.



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